

UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

NOTICE OF MOTION

DISMARIS CASTRO

07 Cr. 452

Defendant.

X

PLEASE TAKE NOTICE, that upon the attached affirmation of *Jorge Guttein, Esq.*, the exhibits thereto, the Affidavit of Dismaris Castro, the accompanying memorandum of law and all the prior proceedings had herein, the defendant *Dismaris Castro* (hereinafter the “defendant”) will move this Court before *United States District Judge Denise L. Cote* at the United States Courthouse, located at 500 Pearl Street, new York, New York on May 2, 2008 at 9:30 a.m. in the forenoon or as soon thereafter as counsel may be heard, for the following relief:

1. Compelling the government to provide a witness list prior to trial and to disclose the identity of the confidential information(s) to the defense prior to trial;
2. Suppression of evidence obtained in violation of the Fourth, Fifth and Sixth Amendments to the Constitution;
3. Compelling the government to state officially in advance of trial whether it intends to offer other crimes or wrong “acts” evidence *pursuant to FRE 404(b)*, and if so, ordering a pre-trial hearing to determine the admissibility of that evidence;

4. Compelling the government to provide the defendant, prior trial, with all material which would exculpate him or mitigate his culpability pursuant to *Brady v. Maryland*, 323 U.S. 83 (1963); see also *Giglio v. United States*, 405 U.S. 150 (1972);
5. While the defendant, *Dismaris Castro* relies upon the government's Fed. R. Crim. P. Rule 16(a) letter submitted January 25, 2008, the government has stated it will provide all materials to be disclosed under *Brady v. Maryland*, 323 U.S. 83 (1963) and its progeny;
6. Defendant, *Dismaris Castro* relies upon representation of the government in the afore-described Rule 16 letter that it will supply discovery on a continuing basis. While it is anticipated that the government will abide by these representation, the right is hereby reserved to make further motions for such material if the need arises;
7. Defendant, *Dismaris Castro* further reserves the right to make any appropriate motions predicated upon information contained in the discovery material not yet provided;
8. Granting defendant, *Dismaris Castro* such other and further relief as this Court may deem just and proper.

Dated: New York, New York
April 18, 2008

Respectfully submitted,
JORGE GUTTLEIN & ASSOCIATES, P.C.
Attorneys for
DISMARIS CASTRO

By _____ /s/
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Clerk of the Court
United States Courthouse
500 Pearl Street
New York, New York 10007

Honorable Denise L. Cote
United States District Judge
United States Courthouse
500 Pearl Street
New York, New York 10007